

REMARKS

Summary Of Office Action

Claims 1-87 are pending in this application. Claims 10-30, 40, 48-65, 78-80, 82, and 87 have been withdrawn pursuant to a species election.

The Examiner withdrew the finality of the September 29, 2005 final Office Action.

Claims 1-5, 7, 41-47, 72-77, 81, and 83-86 were finally rejected under 35 U.S.C. §102(b) as being anticipated by Standerwick et al. U.S. Patent No. 3,072,118 (hereinafter "Standerwick"). Dependent claims 6, 31-34, and 66-69 were finally rejected under 35 U.S.C. §103(a) as being obvious from Standerwick. Dependent claims 8, 9, and 37-39 were finally rejected under 35 U.S.C. §103(a) as being obvious from Standerwick in view of Letendart et al. U.S. Patent No. 6,432,109 (hereinafter "Letendart"), and dependent claims 35, 36, 70, and 71 were finally rejected under 35 U.S.C. §103(a) as being obvious from Standerwick in view of Bittner, Jr. U.S. Patent No. 2,055,024 (hereinafter "Bittner").

Summary Of Applicant's Reply

Applicant has proposed amending independent claims 1, 41, and 72 to more clearly define the invention and has proposed amending dependent claim 69 to correct a minor typographical error. No new matter has been added.

Reconsideration of this application in view of the proposed amendments and following remarks is respectfully requested.

Showing of Good and Sufficient Reasons
Under 37 C.F.R. § 1.116(b)(3)

Applicant requests amendment of this application, even though a final rejection has been issued. The proposed amendments should place the application in condition for allowance and were not presented earlier because they were not previously believed to be necessary.

The proposed amendments of claims 1 and 41 merely make more clear that the bone engaging end of the fragment manipulator attaches to a bone fragment such that the bone fragment can be pulled upward toward the reduction platform. Applicant and the Examiner have been discussing this all along. For example, referring to Standerwick, the Examiner said in the January 19, 2006 final Office Action that “when [Standerwick’s] manipulator is engaged in bone and a top nut turned, the manipulator is urged upward together with the bone attached thereto” (page 6, lines 6-7).

The proposed amendment of claim 72 replaces the claim phrase “thereby moving the located bone portion” with --to reduce the located bone portion--, which is indicated in the claim’s preamble and is also what applicant and the Examiner have been discussing all along.

Therefore, applicant believes that no additional search or consideration is required. Accordingly, applicant respectfully requests entry of the proposed amendments and consideration of the following remarks.

Rejections Of Claims Under 35 U.S.C. § 102(b)

Claims 1-5, 7, 41-47, 72-77, 81, and 83-86 were rejected under 35 U.S.C. §102(b) as being anticipated by Standerwick. The Examiner said that Standerwick discloses a reduction

platform (e.g., curved bar 2 in Standerwick's FIG. 1), receiving holes 28, a fragment manipulator (e.g., mounting pin 8) having a bone engaging end 33, and a nut (e.g., thumb nut 14) threadably and adjustably engaging the manipulator above the platform to draw the manipulator upward.

These rejections are respectfully traversed.

Independent Claim 1

Independent claim 1, amended as proposed, defines a fragment manipulator having a bone engaging end configured to attach to a bone fragment such that the bone fragment can be pulled toward the reduction platform.

Standerwick does not disclose that its fixation apparatus is for reducing bone fractures. More particularly, Standerwick does not disclose in any way that any of its mounting or stabilizing pins is configured to pull a bone fragment upward.

Although Standerwick discloses that its mounting pins have a "bone-piercing drill point 33" (Standerwick column 2, line 51), this does not in any way indicate that those pins are capable of pulling a bone fragment upward.

Note that Standerwick shows drill point 33 as only being pointed, while applicant teaches:

"The increasing threads of the first portion 116 [of the bone engaging end] are adapted to self engage and penetrate the fractured bone piece without pre-drilling of a pilot hole. The uniform diameter threads of the second portion 118 are adapted to securely attach the fractured bone fragment once engaged."

Applicant's specification, page 7, line 32, to page 8, line 1; emphasis added.

Accordingly, Standerwick's bone-piercing drill point 33 may be arguably at most equated with applicant's first portion 116. However, nothing in Standerwick suggests that its mounting pins have a second portion with uniform threads to "securely attach the fractured bone fragment."

Moreover, because Standerwick does not disclose fixation apparatus for reducing bone fractures, Standerwick provides no motivation whatsoever to a person of ordinary skill in the art for modifying Standerwick's mounting pins to include applicant's uniform diameter threads of second portion 118.

Thus, Standerwick does not anticipate or render obvious the fracture reduction assembly defined in applicant's claim 1, amended as proposed.

Independent Claim 41

Similarly, independent claim 41, amended as proposed, defines a fragment manipulator including a bone engaging end having threads attachable to a bone fragment such that the bone fragment can be pulled toward the reduction platform as the fragment manipulator translates.

For the reasons discussed above with respect to claim 1, Standerwick does not disclose or suggest a fragment manipulator having such a bone engaging end. Thus, Standerwick does not anticipate or render obvious applicant's claim 41, amended as proposed.

Independent Claim 72

Independent method claim 72, amended as proposed, includes the following:

"locating at least a portion of a bone to be reduced;" and

“continuing to rotate the nut so that the fragment manipulator is drawn up through the nut to reduce the located bone portion attached to the fragment manipulator.”

Emphasis added.

As discussed above, Standerwick does not disclose a method of craniofacial reduction, much less applicant’s method. In particular, Standerwick does not disclose anything about locating a portion of a bone to be reduced and rotating a nut to draw up a fragment manipulator to reduce the located bone portion.

Thus, Standerwick does not anticipate or render obvious applicant’s method as defined in claim 72, amended as proposed.

* * *

In sum, Standerwick’s fixation apparatus does not meet the limitations of either independent claim 1, 41, or 72, amended as proposed. Therefore, claims 1, 41, and 72 are not anticipated by Standerwick and should be allowable.

And for at least the above reasons, dependent claims 2-5, 7, 42-47, 73-77, 81, and 83-86, which each depend either directly or indirectly from independent claim 1, 41, or 72, should also be allowable (i.e., dependent claims are allowable if their independent claim is allowable).

Accordingly, applicant respectfully requests that the rejections of claims 1-5, 7, 41-47, 72-77, 81, and 83-86 under 35 U.S.C. §102(b) be withdrawn.

Rejections Of Dependent Claims Under 35 U.S.C. § 103(a)

Dependent claims 6, 31-34, and 66-69 were rejected under 35 U.S.C. §103(a) as being obvious from Standerwick; dependent claims 8, 9, and 37-39 were rejected under 35 U.S.C. §103(a) as being obvious from the combination of Standerwick and Letendart; and dependent claims 35, 36, 70, and 71 were rejected under 35 U.S.C. §103(a) as being obvious from the combination of Standerwick and Bittner.

These rejections are respectfully traversed.

For at least the reasons discussed above with respect to independent claims 1, 41, and 72, amended as proposed, dependent claims 6, 8, 9, 31-39, and 66-71, which each depend directly or indirectly from one of those independent claims, are not obvious from Standerwick alone or in combination with Letendart or Bittner (i.e., dependent claims are allowable if their independent claim is allowable).

Moreover, claim 6 defines a self-drilling tip that has a first portion having threads that increase in diameter and a second portion having uniform diameter threads. Neither Standerwick, Letendart, nor Bittner discloses or suggests such a self-drilling tip. Furthermore, none of those references provides any motivation whatsoever for modifying the “bone-piercing drill point 33” of Standerwick (column 2, line 51), which is only shown as being pointed, with applicant’s second portion.

Accordingly, applicant respectfully requests that the rejections of claims 6, 8, 9, 31-39, and 66-71 under 35 U.S.C. §103(a) be withdrawn.

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Withdrawn Dependent Claims 10-30, 40, 48-65, 78-80, 82, and 87

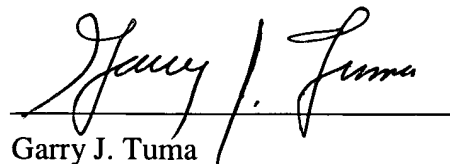
Dependent claims 10-30, 40, 48-65, 78-80, 82, and 87 were withdrawn from consideration pursuant to a species election.

Applicant respectfully requests that these dependent claims be rejoined to the application in view of the allowability of their respective independent claim and submit that these claims are also allowable (i.e., dependent claims are allowable if their independent claim is allowable).

Conclusion

The foregoing demonstrates that claims 1-9, 31-39, 41-47, 66-77, 81, and 83-86 are allowable. Therefore, subject to disposition of withdrawn claims 10-30, 40, 48-65, 78-80, 82, and 87, this application is in condition for allowance. Reconsideration, entry of the proposed amendment, and allowance are accordingly respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Garry J. Tuma", is written over a horizontal line.

Garry J. Tuma
Registration No. 40,210
Attorney for Applicant

JONES DAY
Customer No. 51832
222 East 41st Street
New York, New York 10017
(212) 326-3939